

AMENDED IN SENATE JULY 7, 2003
AMENDED IN ASSEMBLY JUNE 3, 2003
AMENDED IN ASSEMBLY JUNE 2, 2003
AMENDED IN ASSEMBLY APRIL 10, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 694

Introduced by Assembly Members Levine and Chavez

February 19, 2003

An act to amend Section ~~6246~~ 6248 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

AB 694, as amended, Levine. Use tax: *vehicles, vessels, and aircraft*.

The Sales and Use Tax Law imposes a tax on the gross receipts from the sale in this state of, or the storage, use, or other consumption in this state of, tangible personal property.

Under existing law there is a presumption that tangible personal property shipped or brought into this state by the purchaser was purchased from a retailer for storage, use, or other consumption in this state.

This bill would expand the existing presumption that a vehicle, vessel, or aircraft purchased outside of the state is subject to use tax to apply if that vehicle, vessel, or aircraft (1) is purchased by a California resident, (2) was subject to California's registration or property tax laws during the first 12 months of ownership, or (3) was used or stored

in this state more than $\frac{1}{2}$ of the time during the first 12 months of ownership.

This bill would provide that ~~this~~ *the existing* presumption does not apply to aircraft, as specified, brought into this state, on or after the effective date of this act, for the purpose of repair, retrofit, or modification.

This bill, by expanding the application of an existing presumption that requires the imposition of use tax on vehicles, vessels, and aircraft purchased outside of this state, would result in a change in state taxes for the purpose of increasing revenues within the meaning of Section 3 of Article XIII A of the California Constitution, and thus would require for passage the approval of $\frac{2}{3}$ of the membership of each house of the Legislature.

This bill would take effect immediately as a tax levy, but its operative date would depend on its effective date.

Vote: ~~majority~~ $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 ~~SECTION 1. Section 6246 of the Revenue and Taxation Code~~
- 2 ~~is amended to read:~~
- 3 ~~6246. (a) Except as provided in subdivision (b), it shall be~~
- 4 ~~presumed that tangible personal property shipped or brought to~~
- 5 ~~this state by the purchaser was purchased from a retailer on or after~~
- 6 ~~July 1, 1935, for storage, use, or other consumption in this state.~~
- 7 ~~(b) (1) An aircraft brought into this state for the purpose of~~
- 8 ~~repair, retrofit, or modification shall not be deemed to be~~
- 9 ~~purchased from a retailer or acquired for storage, use, or other~~
- 10 ~~consumption in this state until after the repair, retrofit, or~~
- 11 ~~modification of the aircraft is complete and the aircraft has logged~~
- 12 ~~more than 25 hours of air time by the registered owner of that~~
- 13 ~~aircraft or an agent operating that aircraft on behalf of the~~
- 14 ~~registered owner.~~
- 15 ~~(2) This subdivision applies to aircraft brought into this state,~~
- 16 ~~for the purpose of repair, retrofit, or modification, on or after the~~
- 17 ~~operative date of the act adding this subdivision.~~
- 18 ~~SECTION 1. Section 6248 of the Revenue and Taxation Code~~
- 19 ~~is amended to read:~~

6248. (a) On and after the effective date of this section there shall be a rebuttable presumption that any vehicle, vessel, or aircraft bought outside of this State ~~which is brought into California within 90 days from the date of its purchase, and which is subject to registration under Chapter 1 (commencing with Section 4000) of Division 3 of the Vehicle Code~~ state, was acquired for storage, use, or other consumption in this ~~State~~ state and is subject to use tax if any of the following occur:

(1) The vehicle, vessel, or aircraft was purchased by a California resident as defined in Section 516 of the Vehicle Code.

(2) In the case of a vehicle, the vehicle was subject to registration under Chapter 1 (commencing with Section 4000) of Division 3 of the Vehicle Code during the first 12 months of ownership.

(3) In the case of a vessel or aircraft, the vessel or aircraft was subject to property tax in this state during the first 12 months of ownership.

(4) The vehicle, vessel, or aircraft was used or stored in this state more than one-half of the time during the first 12 months of ownership.

(b) This presumption may be controverted by documentary evidence that the vehicle, vessel, or aircraft was purchased for use outside of this state during the first 12 month of ownership that shall include, but not be limited to, evidence of registration of that vehicle, vessel, or aircraft with the property authority outside of this state.

(c) This section does not apply to any vehicle, vessel, or aircraft used in interstate or foreign commerce pursuant to regulations prescribed by the board.

(d) (1) Notwithstanding subdivision (a), aircraft brought into this state for the purpose of repair, retrofit, or modification shall not be deemed to be acquired for storage, use, or other consumption in this state until after the repair, retrofit, or modification of the aircraft is complete, and the aircraft has logged more than 25 hours of air time in this state by the registered owner of that aircraft or by an agent operating that aircraft on behalf of the registered owner.

(2) This subdivision applies to aircraft brought into this state, for the purpose of repair, retrofit, or modification, on or after the operative date of the act adding this subdivision.

1 SEC. 2. This act provides for a tax levy within the meaning of
2 Article IV of the Constitution and shall go into immediate effect.
3 However, the provisions of this act shall become operative on the
4 first day of the first calendar quarter commencing more than 90
5 days after the effective date of this act.

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